

EXHIBIT 43

<p>9</p> <p>1 Q. And what period of time did you walk the 2 beat? 3 A. From June of '73 until December of '73. 4 That was some walking, mostly driving. 5 Q. Okay. And your position in the 6 Jacksonville police department? 7 A. Well, it is office of sheriff, Jacksonville 8 police department. 9 Q. That period, the six month period, you 10 walked the beat as a patrolman, correct? 11 A. That's correct that was my status, 12 patrolman. 13 Q. Have you ever been higher than a patrolman? 14 A. No. By election, that has always been what 15 I have been studying, so I've always been a patrol 16 officer. 17 Q. So you've never been chief, a captain a 18 lieutenant or supervisor? 19 A. No, I've never been a supervisor. 20 Q. Have you ever had responsibility for hiring 21 and firing police officers? 22 A. No. 23 Q. Now, you mentioned that you updated your CV 24 probably around October of 2007? 25 A. Right.</p>	<p>11</p> <p>1 you estimate? 2 A. Probably 90, sometimes 95 percent is civil 3 and the balance criminal. 4 Q. And so back to my other question, what 5 percentage of the civil cases would you say you consult 6 on behalf of plaintiffs? 7 A. Rough estimate would be somewhere between 8 60 and 70 percent plaintiffs, the balance defense. 9 Q. What percentage of your civil cases involve 10 police investigative procedures? 11 A. Well, let me answer it in this way: Of my 12 civil cases, there are two major categories, premises 13 liability crime prevention and police. With regard to 14 police, there are quite a number of sub areas, and it 15 would be difficult for me to differentiate other than 16 to say that a minority of them involve investigative 17 procedures. 18 Q. Okay, I'll tell you what: Of your civil 19 case load, what percentage involve premises liability 20 and what percentage involve police issues? 21 A. About half and half right now. 22 Q. Okay, so of the half that are police -- 23 A. Right. 24 Q. -- what is your best estimate of the 25 percentage that involve police investigative</p>
<p>10</p> <p>1 Q. And as it states now you've been involved 2 in some 1,500 cases? 3 A. Approximately. 4 Q. So is that number still an accurate 5 estimate? 6 A. It changes from day to day and week to 7 week, but it would be the closest approximation I could 8 give you. 9 Q. How long have you been performing 10 consultant work for civil litigation? 11 A. Since about -- initially about 1974 or 12 '75, somewhere right in there. 13 Q. How much of your annual income would you 14 say you get from consulting on civil litigation? 15 A. Oh, the vast majority of it, 95 percent, 16 other than University retirement and investments and so 17 on. 18 Q. And all these cases that you have been 19 consulting in, what percentage would you say you have 20 consulted on behalf of plaintiffs? 21 A. By the way, just parenthetically, I also 22 consult in criminal cases. Mostly civil, though. 23 Probably about 90 percent civil. 24 Q. I'll tell you what, of your entire case 25 load, how much is civil and how much is criminal would</p>	<p>12</p> <p>1 procedures? 2 A. I couldn't tell you other than to say that 3 I have had many of them over the years, but I would be 4 guessing and I don't want to guess. I couldn't 5 quantitate it. 6 Q. Are there documents that you have that you 7 could look at to tell me what the percentage is? 8 A. There really are not. I've never 9 memorialized anything regarding cases in terms of a 10 breakdown of different -- because there are so many 11 different categories of police case pursuit -- use of 12 force, hiring procedures, investigative procedures. 13 Q. Okay. So there is no way you could tell me 14 what percentage of your police cases involve 15 investigative procedures? 16 A. No, other than to say that I have had a 17 great many of them over 30 years, no. I couldn't 18 quantitate it. 19 Q. And there are no documents you could look 20 at for that? 21 A. No. 22 Q. If you had to find out, what would you do 23 to find out? 24 A. There was a time when I knew every case and 25 every attorney. I would have to go to my reference</p>

EXHIBIT 44

4 (Pages 13 to 16)

<p>13</p> <p>1 list which runs from A to Z and which is very, very</p> <p>2 lengthy and try to recall going through the names of</p> <p>3 the attorneys. Oh, yes, this was an investigative</p> <p>4 case, that was an investigative case. It is very</p> <p>5 difficult in the amount of time that has passed and the</p> <p>6 fallibility of memory to frequently recall is it a</p> <p>7 police case or was it a premises case? Let alone what</p> <p>8 type of police case it was unless it stands out for</p> <p>9 some reason.</p> <p>10 Q. How long do you think it would take you to</p> <p>11 go through that list? Two weeks?</p> <p>12 A. Quite a bit of time. I should imagine,</p> <p>13 yes. I would think depending upon how much time you</p> <p>14 spent ruminating on each -- it is just listed by</p> <p>15 attorney name and location. It would be very, very</p> <p>16 time consuming, I should think, to go through and try</p> <p>17 to you know, tease your memory and recall each one. It</p> <p>18 would be very difficult and then from that to try to</p> <p>19 extract for example, I probably had more firearms cases</p> <p>20 than any other category. Which ones were firearms? I</p> <p>21 don't think I could reconstruct that to a very</p> <p>22 successful degree over so many years, all 50 states.</p> <p>23 Q. You just said you have had significantly</p> <p>24 more firearms cases.</p> <p>25 A. Right.</p>	<p>15</p> <p>1 Q. Is it fair to say you have no background as</p> <p>2 a police investigator?</p> <p>3 A. No personal background, though again, I'm</p> <p>4 thoroughly conversant with the professional literature,</p> <p>5 the professional standards that exist and have existed</p> <p>6 for many years throughout the United States regarding</p> <p>7 police investigative procedures including internal</p> <p>8 affairs matters.</p> <p>9 Q. Have you ever reviewed police investigative</p> <p>10 procedures that are specific to the state of New</p> <p>11 Jersey?</p> <p>12 A. Only if I have had a case and I've had</p> <p>13 numbers of cases in New Jersey over the years that has</p> <p>14 involved a matter of police investigation. As I sit</p> <p>15 here, I don't know. I can remember use of force cases</p> <p>16 in New Jersey, perhaps pursuit cases, but I don't know</p> <p>17 what I have had up there investigatively.</p> <p>18 Q. Well, that is the important question. What</p> <p>19 police investigative procedures specific to New Jersey</p> <p>20 have you ever reviewed?</p> <p>21 A. Yes, I can't tell you that. I just don't</p> <p>22 know.</p> <p>23 Q. How would you find out?</p> <p>24 A. Again, I would have to go back and look at</p> <p>25 all the New Jersey cases I have had over the years</p>
<p>14</p> <p>1 Q. Would you estimate that your police</p> <p>2 investigation cases are more or less than 10 percent of</p> <p>3 your police cases?</p> <p>4 A. I'm reluctant to try to quantitate it,</p> <p>5 because I just don't know. I would tell you that the</p> <p>6 other categories -- firearms, vehicular pursuit, less</p> <p>7 than deadly force -- would surely be larger categories</p> <p>8 than police investigative procedures, but that has been</p> <p>9 a significant category. Whether it is 10 percent or 15</p> <p>10 percent, I wouldn't think it would be over 20 percent,</p> <p>11 but I just don't know. I don't have a number that I</p> <p>12 could give you.</p> <p>13 Q. Do you consider yourself an expert in</p> <p>14 police investigative procedures?</p> <p>15 A. Oh, yes. I'm thoroughly conversant with</p> <p>16 professional standards that have existed for many years</p> <p>17 regarding the conduct of police investigation, though I</p> <p>18 have limited personal experience as a police</p> <p>19 investigator.</p> <p>20 Q. Is it fair to say you don't have</p> <p>21 significant experience as a police investigator?</p> <p>22 A. That is a fair statement.</p> <p>23 Q. Is it fair to say you don't have any</p> <p>24 educational experience as a police investigator?</p> <p>25 A. That is true as well.</p>	<p>16</p> <p>1 through hundreds of law firms and try to recall which</p> <p>2 of these would have had something to do with</p> <p>3 investigative procedures as opposed to other things.</p> <p>4 Q. Did you look at any investigative New</p> <p>5 Jersey investigative procedures when you prepared your</p> <p>6 report in this case?</p> <p>7 A. No, I --</p> <p>8 Q. Thank you, Doctor.</p> <p>9 A. I'm sorry.</p> <p>10 Q. In your CV there is a point where you state</p> <p>11 that you worked with four law enforcement agencies</p> <p>12 regarding criminal investigations. What four agencies</p> <p>13 were those?</p> <p>14 A. There are -- four agencies I work with were</p> <p>15 chronologically, office of Sheriff Jacksonville police</p> <p>16 that we have talked about during '73 for six months.</p> <p>17 Then the Tallahassee police department from I think I</p> <p>18 was sworn in there in May of '74 parallel with my</p> <p>19 university career up until I tendered my resignation I</p> <p>20 think around August of '91 and overlapping with that</p> <p>21 period of time, I worked for two years with Leon County</p> <p>22 sheriff's department.</p> <p>23 Q. Is that in Florida?</p> <p>24 A. It is in Tallahassee, yes, their criminal</p> <p>25 investigation division on a part-time basis until there</p>

EXHIBIT 45

<p>17</p> <p>1 was an Attorney General's ruling that you couldn't be a 2 sworn officer with two agencies simultaneously, so I 3 resigned that commission and kept the police department 4 commission. 5 And then one summer under a grant from the 6 U.S. department of justice I worked as an undercover 7 officer as part of a federal strike force in Fort 8 Lauderdale, Broward County. That was for three months. 9 Q. In your CV on that same topic of the 10 Florida agencies you worked with, there was a point 11 where you state that you worked on assignments as 12 diverse as, and one of them was criminal investigation. 13 A. Right. 14 Q. What is your definition of a criminal 15 investigation? 16 A. Well, criminal investigation basically 17 involves the investigation of alleged criminal activity 18 on the part of someone. And it may be accomplished in 19 a variety of contexts as referenced what you just re. 20 I did investigative work undercover and I did some of 21 it as a -- as a detective with the sheriff's 22 department. 23 Q. Did you ever do any criminal investigations 24 as a police officer in New Jersey? 25 A. No, no.</p>	<p>19</p> <p>1 A. Of police cases, probably -- probably I 2 would say over the last five years, close to 70 percent 3 would be my best estimate. 4 Q. On your CV you list yourself as a former 5 member of the International Association of Chiefs of 6 Police; is that correct? 7 A. Associate member, yes. 8 Q. But you were never a chief, correct? 9 A. No, associate member you have to be 10 sponsored by a chief. 11 Q. Have you ever spoken to Fred Inbau? 12 A. Yes, I formerly served as a board member of 13 Americans For Effective Law Enforcement many years ago 14 so that's how I knew Prof. Inbau. 15 Q. When is the last time you spoke to him? 16 A. Oh, lord, it has been 30 years. He was 17 quite along in years. I don't know if he is still 18 alive. 19 Q. Have you ever spoken to Gov. Dukakis? 20 A. Not to the governor himself. I was 21 involved in a task force investigation some years ago 22 of training up there. 23 Q. Who did you work with at the British Metro 24 Police in 1988? 25 A. I don't recall who I -- they brought me</p>
<p>18</p> <p>1 Q. And just so I am correct, you were never 2 higher than a patrolman as a police officer, correct? 3 A. Correct. 4 Q. And you've never been a police officer in 5 New Jersey, correct? 6 A. That's correct also. 7 Q. Doctor, what is your average annual income 8 for the past five years? 9 MR. FAUGNO: I'm going to object to that, 10 but you can answer. 11 THE WITNESS: Again I'll have to give you 12 my best estimate. 13 BY MR. RAINONE: 14 Q. I won't tell the IRS. 15 A. That's all right. I deal with them all the 16 time. I have a Florida sub S corporation I've had for 17 about 30 years now and I operate sole officer under it. 18 And I would say I am -- I gross probably 250 to 19 \$300,000 from which I derive an income after expenses. 20 Q. And that is for your consulting work, 21 correct? 22 A. Correct. That's all consulting. 23 Q. Over the past five years, just as to your 24 police cases, what percentage of those civil police 25 cases were you consulting for a plaintiff?</p>	<p>20</p> <p>1 over there and I gave some lectures and spent some time 2 with different parts of their police structure. I 3 don't remember, it has been so many years. 4 Q. Is there any place you could look at to 5 find out that information? 6 A. I don't think so. There may be a Bobby's 7 hat in there. 8 Q. Who did you work with at the New York 9 police department PBA? 10 A. I don't remember the names of the PBA 11 officers that had me up there. I was consulting with 12 them on stress and crisis intervention in the police 13 department. I can't remember over so many years, just 14 to say that they were members of the PBA that brought 15 me up. 16 Q. Your work with the NYPD PBA, did that have 17 anything to do with investigative procedures? 18 A. No. 19 Q. I'll tell you what, Doctor. Why don't you 20 open Kirkham I which is your CV. 21 A. All right. 22 Q. And pages 3 to 4. 23 A. Right. 24 Q. Really starting at the bottom with the 25 Detroit Police Officers Association about the fifth</p>

EXHIBIT 46

6 (Pages 21 to 24)

<p style="text-align: right;">21</p> <p>1 entry from the bottom.</p> <p>2 A. From the bottom, okay.</p> <p>3 Q. Start on page 3, Doctor.</p> <p>4 A. I'm sorry, okay.</p> <p>5 Q. Go back one.</p> <p>6 A. Okay.</p> <p>7 Q. Detroit Police Officers Association.</p> <p>8 A. Right.</p> <p>9 Q. Running all the way down through the next</p> <p>10 page which ends Hillsborough County Sheriff Police</p> <p>11 Department.</p> <p>12 A. Right.</p> <p>13 Q. Could you tell me which of these</p> <p>14 associations you had any involvement with police</p> <p>15 investigative procedures?</p> <p>16 A. I don't think there are any of these. They</p> <p>17 were in connection with other matters other than police</p> <p>18 investigation. I don't think any of them had to do</p> <p>19 with police investigation.</p> <p>20 Q. Okay, thank you, Doctor.</p> <p>21 A. Sure.</p> <p>22 Q. Who did you work with at the U.S. treasury</p> <p>23 department?</p> <p>24 A. I worked with the consolidated federal law</p> <p>25 enforcement training center which was located in</p>	<p style="text-align: right;">23</p> <p>1 Jersey?</p> <p>2 A. I don't think so.</p> <p>3 Q. You don't think so or you didn't?</p> <p>4 A. I'm pretty sure I have never done. 50</p> <p>5 states are hard to remember, but I'm sure it would be</p> <p>6 listed on here if I had.</p> <p>7 Q. So if it is not on your CV, it didn't</p> <p>8 happen?</p> <p>9 A. I don't think so.</p> <p>10 Q. Since 1991, what has been your occupation</p> <p>11 other than the consulting work?</p> <p>12 A. Well, Professor emeritus, Florida State</p> <p>13 University school of criminology and criminal justice</p> <p>14 and a private criminal justice consultant. I stand</p> <p>15 semiretired now.</p> <p>16 Q. Are you still teaching at Florida State?</p> <p>17 A. No, no.</p> <p>18 Q. When did you retire?</p> <p>19 A. August of 1991.</p> <p>20 Q. So since August of 1991, you've been</p> <p>21 consulting?</p> <p>22 A. Yes, that's correct.</p> <p>23 Q. Before you got your doctorate degree, you</p> <p>24 were working in a prison, correct?</p> <p>25 A. I had worked in a prison, yes.</p>
<p style="text-align: right;">22</p> <p>1 Washington at the time. It is now in Glen Cove,</p> <p>2 Georgia, but I don't remember the name of the person</p> <p>3 who brought me up there to do training.</p> <p>4 Q. What year was that?</p> <p>5 A. That would have been somewhere back in</p> <p>6 probably the early eighties. I don't recall exactly.</p> <p>7 Q. Okay. Who did you work with at the FBI?</p> <p>8 A. Again I was invited to come up to Quantico</p> <p>9 and display a new series of training films I developed</p> <p>10 under the U.S. Department of Justice grants, but I</p> <p>11 don't remember who the contact person was.</p> <p>12 Q. Am I correct in understanding your CV that</p> <p>13 you have performed consultant work for some police</p> <p>14 departments and towns throughout the country?</p> <p>15 A. Yes, I have and I don't currently do that</p> <p>16 type of work anymore but I have done extensive training</p> <p>17 and consulting.</p> <p>18 Q. When was the last year you did that?</p> <p>19 A. I haven't done that probably for oh, gosh,</p> <p>20 15 years or more now.</p> <p>21 Q. According to your CV, you've never acted as</p> <p>22 a consultant for a New Jersey town or state police</p> <p>23 department?</p> <p>24 A. I don't believe so.</p> <p>25 Q. And not a county police department in New</p>	<p style="text-align: right;">24</p> <p>1 Q. How many years did you work in a prison</p> <p>2 for?</p> <p>3 A. Initially, I was a student professional</p> <p>4 assistant at Soledad state prison, now Salinas Valley</p> <p>5 state prison from 1964, the summer of '64 and then I</p> <p>6 returned there. I worked there two years while I was</p> <p>7 finishing my masters degree.</p> <p>8 Q. And your bachelors and master's degree,</p> <p>9 what was their concentration in?</p> <p>10 A. In the field of criminology.</p> <p>11 Q. Criminology?</p> <p>12 A. Yes.</p> <p>13 Q. Are you sure?</p> <p>14 A. Yes. At the time it was specifically</p> <p>15 criminology, it was corrections. My degree says</p> <p>16 emphasis corrections. I was going into the penal</p> <p>17 system.</p> <p>18 Q. Okay. So it wasn't with an emphasis in</p> <p>19 police investigations?</p> <p>20 A. No, no.</p> <p>21 Q. In your CV you list a two part video series</p> <p>22 called Police Authority and Informal Discretion. What</p> <p>23 are those videos about?</p> <p>24 A. Basically, they are a series of vignettes</p> <p>25 that show officers in different field situations,</p>

<p style="text-align: right;">25</p> <p>1 predominantly patrol officers, some officers in other 2 capacities, off duty, for example, in which the officer 3 makes a proper or improper use of the exercise of 4 authority, his or her authority, and there is a 5 critique of it. There are role plays, there is a 6 manual that goes along with it. That was developed 7 under grants from the U.S. Department of Justice. 8 Q. What years were those videos made? 9 A. They came out in '76. You are talking 10 about Police and Human Dimension. There were eight of 11 them, I think. 12 Q. You haven't received a research grant since 13 1979, correct? 14 A. I have not applied for one, that's correct. 15 Q. So you haven't received one? 16 A. No, I haven't applied for one. 17 Q. Okay. When was the last time you applied 18 for one? 19 A. It would have been somewhere back in the 20 seventies, mid seventies. I wound up using grant 21 monies that I had at the University that had been 22 sitting in the bank as it were, to develop the body 23 language series in the late eighties, '89 or so. 24 Q. What year was your work as you describe it 25 in your CV the subject of a 60 Minutes segment?</p>	<p style="text-align: right;">27</p> <p>1 Q. So you have never received any formal 2 education on police investigative procedures; is that 3 correct? 4 A. Only -- patrol officers are investigators 5 to a degree. Only in the course of the basic police 6 academy. There has been no formalized training in 7 police investigative procedures. 8 Q. I'll tell you what, let me ask a different 9 question. When you obtained your bachelors, masters or 10 doctorate degree, none of those degrees involved 11 education in police investigative procedures? 12 A. You are right. 13 Q. And as for your experience, it is simply in 14 your training as a patrolman, right? 15 A. As far as any training that I would have 16 had in investigative matters, yes. 17 Q. Okay. 18 A. In-service training or academy training. 19 Q. Thank you, Doctor, you can put that one 20 aside. That wasn't painful. 21 A. That's what a dentist says. My brother is 22 a dentist. 23 (Kirkham Exhibit 2, document entitled 24 "Rule 26b List for Dr. George Kirkham" was marked 25 for identification.)</p>
<p style="text-align: right;">26</p> <p>1 A. Boy, that's tough. I think somewhere in 2 the mid seventies. I'm not sure just when. Maybe late 3 seventies. 4 Q. Okay. And you listed the Tomorrow Show on 5 NBC. 6 A. Right. 7 Q. Did you mean the Today Show? 8 A. No, it was then called the Tomorrow Show. 9 Q. Same question. What year was your work the 10 subject of the Tomorrow Show? 11 A. I think that was back somewhere in the mid 12 seventies. Something like that. 13 Q. For Good Morning, America, Newsweek, U.S. 14 News and World Report, People magazine and Reader's 15 Digest, is it fair to say your work was the subject of 16 all those particular media outlets in the 1970s? 17 A. Right, the movement from professor to 18 policeman is mainly what they were focused on. 19 Q. Nothing in the 1980s or nineties? 20 A. No. I've done, I do interviews with MS-NBC 21 or Fox News, things like that, but sporadic. 22 Q. But the ones you identified in the CV, you 23 are referring to the 1970s time period? 24 A. Yes, those mostly surrounded the Professor 25 Policeman project.</p>	<p style="text-align: right;">28</p> <p>1 BY MR. RAINONE: 2 Q. Dr. Kirkham, we have placed in of you what 3 we marked as Kirkham Exhibit 2 which I will represent 4 is a rule 26b list for Dr. George Kirkham which I 5 received from Mr. Faugno and also from your website. 6 Would you take a look through that document and tell me 7 if you agree with my characterization of the document. 8 A. Yes, that is exactly what it is. 9 Q. And did you prepare this list? 10 A. No, my associate, Prof. Pete Fanton, 11 prepared this. 12 Q. Do you know when the last time it was 13 updated? 14 A. It was just updated through '07 recently. 15 It looks like the updates are on here. 16 Q. So is this a full and complete list of all 17 the cases you have testified in or been deposed in 18 since 2000? 19 A. Well, it is also cases I have been retained 20 in and have done neither deposition nor trial. They 21 have settled or resolved, for example. 22 Q. Okay. 23 A. So it is with the caveat that we are now 24 sitting here in February and there are recent cases, a 25 few cases that have come in already this year that</p>

EXHIBIT 47

12 (Pages 45 to 48)

<p style="text-align: right;">45</p> <p>1 other documents, no.</p> <p>2 Q. That's no?</p> <p>3 A. No.</p> <p>4 Q. All right. Before you prepared this</p> <p>5 report, who did you speak to?</p> <p>6 A. Mr. Faugno.</p> <p>7 Q. Did you speak with Mark Van?</p> <p>8 A. No, I've never spoken to Mr. Van.</p> <p>9 Q. You only spoke to Mr. Faugno?</p> <p>10 A. Yes.</p> <p>11 Q. Did you speak with anyone else?</p> <p>12 A. His secretary, mostly about the logistics</p> <p>13 of the deposition.</p> <p>14 Q. Anyone else outside of Mr. Faugno's office</p> <p>15 before you prepared this report, did you speak to them?</p> <p>16 A. No.</p> <p>17 Q. Did you go to New Jersey before you</p> <p>18 prepared the report?</p> <p>19 A. No.</p> <p>20 Q. While you were preparing the report, did</p> <p>21 you talk to Mark Van?</p> <p>22 A. No, I've never spoken to Mr. Van in my</p> <p>23 life. I don't know him.</p> <p>24 Q. Okay. You said you prepared this report,</p> <p>25 correct?</p>	<p style="text-align: right;">47</p> <p>1 A. You know, there may be things that are</p> <p>2 italicized. I don't remember what I did in terms of</p> <p>3 the process of putting this together.</p> <p>4 Q. Okay. So you don't have the drafts of the</p> <p>5 report?</p> <p>6 A. No, no.</p> <p>7 Q. Okay. Do you have any notes, handwritten</p> <p>8 notes when you were reviewing the 28 items?</p> <p>9 A. No. See, my style of note taking is to</p> <p>10 highlight, I italicize, I dog ear. Sometimes I make a</p> <p>11 parenthetic marginal note, but that is my style of note</p> <p>12 taking.</p> <p>13 Q. Okay, so this Redweld which we will mark we</p> <p>14 will call Kirkham 4, this is your complete file in this</p> <p>15 matter which we will have copied and I'll take a copy.</p> <p>16 A. That's correct.</p> <p>17 Q. And that's everything, no notes or drafts</p> <p>18 anywhere else?</p> <p>19 A. No. I assume the court reporter takes</p> <p>20 that, he will get it back to me.</p> <p>21 Q. Right. So the only person you spoke to in</p> <p>22 preparing this report was Mr. Faugno, correct?</p> <p>23 A. Correct.</p> <p>24 (Kirkham Exhibit 4, Dr. Kirkham's file, was</p> <p>25 marked for identification.)</p>
<p style="text-align: right;">46</p> <p>1 A. Entirely by myself, yes.</p> <p>2 Q. You typed it where, on a computer?</p> <p>3 A. On my computer, correct.</p> <p>4 Q. The computer is in this house we are in</p> <p>5 now?</p> <p>6 A. Yes, it is.</p> <p>7 Q. Are there drafts of this report before this</p> <p>8 final one?</p> <p>9 A. No. I mean, initially, I would go through</p> <p>10 it, I would move things, add things. This is the end</p> <p>11 product. This is all I save.</p> <p>12 Q. So there were drafts; is that correct?</p> <p>13 A. Well, drafts in the sense of you know, my</p> <p>14 initial composition. I don't remember which paragraphs</p> <p>15 I changed or which things I might have added to or</p> <p>16 moved around. That's the way one prepares something</p> <p>17 like this, but I don't think of it as drafts.</p> <p>18 Q. When you were working on the report, was</p> <p>19 there any information you deleted from the final report</p> <p>20 before you sent it out?</p> <p>21 A. No. I mean, I edited. Without any input,</p> <p>22 I might add, from Mr. Faugno or anyone else. As I sit</p> <p>23 at my machine, my computer working on this, I'm sure</p> <p>24 there are sentences that have been changed.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">48</p> <p>1 BY MR. RAINONE:</p> <p>2 Q. On items 1 through 28, there are items 21</p> <p>3 through 27 are depositions of seven witnesses. Did you</p> <p>4 read all seven depositions?</p> <p>5 A. Very carefully. Some of them more than</p> <p>6 once, yes.</p> <p>7 Q. Let's go to paragraph 1 of the report,</p> <p>8 Doctor.</p> <p>9 A. All right.</p> <p>10 Q. In paragraph 1, this is Kirkham 3, you use</p> <p>11 the term "extremely serious violations." I would like</p> <p>12 you to define for me what "extremely serious" means in</p> <p>13 your mind.</p> <p>14 A. Egregious, outrageous, beyond the pale of</p> <p>15 anything remotely acceptable in the field of law</p> <p>16 enforcement. I am not given to hyperbole, but those</p> <p>17 are terms that are used to accentuate the seriousness</p> <p>18 of the situation.</p> <p>19 Q. You said, "outside the realm of anything</p> <p>20 acceptable in law enforcement"; is that correct?</p> <p>21 A. Violations of specific police investigative</p> <p>22 procedures is what I am talking about specifically.</p> <p>23 Q. Okay. What specific police investigative</p> <p>24 procedure did you base this statement on, this</p> <p>25 "extremely serious violations"?</p>

<p style="text-align: right;">49</p> <p>1 A. It is based on my familiarity and I would 2 be glad to give you some exemplars off the top of my 3 head. My familiarity with an extensive body of 4 publications -- books, articles, monographs -- on 5 proper investigative procedures, police investigative 6 procedures involving specifically police personnel who 7 allegedly had been involved in some form of misconduct. 8 The backdrop of my familiarity with the relevant body 9 of professional literature that is utilized in my 10 experience throughout the United States in law 11 enforcement agencies -- federal, state and local. 12 Q. Could you point out to me in items 1 13 through 28 where those specific books and reference 14 materials are? 15 A. Well, they are not chronicled in here. 16 They are not things that I -- I did not go back. 17 MR. FAUGNO: I object. He didn't say he 18 reviewed them. 19 MR. RAINONE: He said that's what they were 20 based on. 21 MR. FAUGNO: That doesn't mean he reviewed 22 them for this case. 23 THE WITNESS: It is predicated on my 24 longstanding familiarity with these documents. 25 Thought I did not for purposes of this case ad hoc</p>	<p style="text-align: right;">51</p> <p>1 I didn't feel a need to do it. These things I am 2 familiar with, I have been for many years. 3 Q. I'll tell you what: The well-established 4 law enforcement investigative standards and procedures. 5 A. Okay. 6 Q. What standards and procedures are you 7 referring to? 8 A. I'm talking about standards that relate to 9 police investigative procedures and those particularly 10 that pertain to alleged criminal and/or administrative 11 violations by a law enforcement officer. Those things 12 are dealt with in countless texts, periodicals. I'll 13 be glad to give you examples. You can look at them. 14 Q. Give me a list. 15 A. Again, you're asking for a list, counsel, 16 and I'm speaking off the top of my head in terms of 17 memory against a huge body of literature, but I'll be 18 glad to give you some prominent exemplars. 19 Q. I would like for you to give me what you 20 are referring to in paragraph 1. You wrote a report, 21 "Well-Established Law Enforcement Investigative 22 Standards and Procedures." Yes or no, you can give me 23 the list of the procedures and standards you are 24 referring to in paragraph 1? 25 A. "List" implies comprehensive.</p>
<p style="text-align: right;">50</p> <p>1 go back and begin reviewing specific documents is 2 what I am saying. 3 BY MR. RAINONE: 4 Q. I'll tell you what. Give me the list now. 5 A. Not having a photographic memory, I would 6 be glad to give you some prominent exemplars off the 7 top of my head. 8 Q. No, I would like to know the list you 9 relied on in making the statement that based on the 10 documents 1 through 28 that you looked at disclosed 11 extremely serious violations by the defendants of 12 well-established law enforcement investigative 13 standards and procedures. I want to know what specific 14 reference materials you were describing that your 15 general backdrop you have knowledge of. 16 A. You are asking for two different things. 17 Q. No. If you don't understand the question, 18 tell me. 19 A. Well, I don't understand the question. By 20 way of clarity, are you asking me what specific -- I 21 think I just answered this. What specific documents, 22 professional standards documents, I reviewed? Or are 23 you asking me did I rely on general law enforcement 24 literature that would contain some specifics? But I 25 didn't do a literature search for purpose of this case.</p>	<p style="text-align: right;">52</p> <p>1 Q. It's a simple question. Can you give me 2 the list? 3 MR. FAUGNO: You are being argumentative. 4 MR. RAINONE: I would like an answer to my 5 question. 6 THE WITNESS: No, I cannot give you a list 7 of all relevant documents, periodicals, textbooks, 8 articles that are published in the United States of 9 America. It is extensive. It will fill shelf 10 after shelf. I cannot give list all those 11 documents. 12 BY MR. RAINONE: 13 Q. That is not what I am asking. I'll give 14 you an example? If I wanted to -- as a lawyer, if I 15 want to know what the rules are in the federal court, I 16 go and look at the Federal Rules of Civil Procedure. 17 So you have written a report about violations of 18 well-established law enforcement investigative 19 standards and procedures. How do I -- I'm not a police 20 officer, I've never been a police officer. How do I go 21 find out where these standards and procedures are? 22 A. You ask the deponent expert, I think, could 23 I have some sources? Could I have some examples of the 24 types of material you predicated your report on? When 25 you speak of violations of well-established</p>